Case No. 08-cv-00360 W (RBB) Filed 8/18/2008

Nathan Kevin Turner
C-44886 - J-264L
Post Office Box 2000
Vacaville, CA 95696-2000

Plaintiff In Pro. Se

FILED
2008 AUG 25 PM 3:39
CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY RM DEPUTY

IN THE UNITED STATES DISTRICT COURT

FOR THE SOBTHERN DISTRICT OF CALIFORNIA

Nathan Kevin Turner Plaintiff, v. Bonnie Demanis, District Attorney of the County of San Diego; San Diego Police Dept.; Detective A. Fragoso of the San Diego County Police Dept.; Detective J. Dreis of the San Diego County Police Dept.; San Digo Crime Lab; and the Attorney General of the State of Calif., Defendants.	Civil No. 08-CV-00360 W (RBB) **REQUEST FOR A 60-DAY ENLARGEMENT OF TIME TO FILE THE ANSWER TO NOTICE TO MOTION AND MOTION TO DISMISS PLAINTIFF'S COMPLAINT FOR FAILURE TO STAE A CONSTITUTIONAL CLAIM [doc.no.10]; [doc.no.12]; [doc. no.13]; and [doc.no.15].** Date : July 28, 2008 Dept. : 7-Courtroom of the Honorable Thomas Whelan Trial Date : None

PLEASE TAKE NOTICE that on July 28, 2008 or as soon thereafter as the matter may be heard, in the courtroom of the Honorable Thomas Whelan, United States District Judge, located at 940 Front Street, San Diego, California, Plaintiff Nathan Kevin Turner, a State prisoner proceeding in Pro. Se, on July 10, 2008, filed a Request for a 60-day enlargement of thime to respond to answer to Attorney General and District Attorney Bonnie Dumanis, et al.,[doc.no.10]; [doc. no.12], was set to be heard by the court on June 23, 2008, at 10:00 a.m. Defandants San Diego Police Dept., J. Dreis, [doc.no.12] on June 23, 2008 set to be heard by judge Thomas Whelan, on July 13, 2008, at 10:30 a.m. On June 20,

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STD. 113 (REV. 8-72)

85 34769

[doc.no.13] was set to be heard by July 28, 2008. Plaintiff's first Motion was filed, plaintiff subm tted a Request for 30-day enlargement of time and [doc. no. 15], came and plaintiff needed additional time . Plaintiff's request was Granted. Good Cause appearing.

On or about June 20, 2008, the Court ordered the plaintiff stating plaintiff shall file a combined response to all three motions to dismiss no later than July 28, 2008. The response should separately address the merits of each motion.

On June 20, 2008, plaintiff was escorted to Administrative Segregation and property was stored. Therefore, on or about July 10, 2008, plaintiff submitted a Motion requesting a 60-day enlargement of extension due to plaintiff not having access to property to address the Court and as of this here date have not received conformation as to a denial or good cause appearing for that extension. (See Copy Exhibit-A).

Plaintiff makes again this application for 60-day enlargement of time to file the response to answer Attorney General and District Attorney Bonnie Dumanis, San Diego Police Department, Crime Lab, and Detective J. Dreis.

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DECLARATION

I. Nathan Kevin Turner, declare under penalty of perjury as folloes;

1. I am th plain iff in Pro. Se, whom will be answering and preparing to answer the Attorney General motion to dismiss petition for 42 USC §1983, which should be filed July 28, 2008. In the case of Nathan Kevin Turner v. Bonnie Dumains, et al., for the United States District Court , Southern District Civil case No. **08-cv-00360 W (RBB)**

2. I respectfully inform the court that I will be unable to file the answer of the Attorney Genera Motion to Dismiss accompanying Memorandum of Points And Authroities by July 28, 2008, deadline due to plaintiff receiving his property out of storage late. Therefore, plaintiff needs a 60-day enlargement of the filing deadline up to and includeing September 26, 2008. Under final deadline pursuant to California Rule of Court, rule 8.360(c)(5)(A).

3. Plaintiff, who is representing himself on a Pro. Se basis, is only allowed access to the prison law library only four (4) hours per week which prevents him from completing the necessary legal research required to properly respond to defendants motions.

4. Attorneys response is very detailed and lengthy with many case citations that require research and reading and due to plaintiff's limited status as a layman at law inability to understand the law, a 60-day extension of time is needed and necessary to file a appropriate reply.

I apologize for any inconvenience that this request for enlargement of time may cause to the Court and the Court's staff. I also apologize for not presenting this request at a earlier date.

Dated: **August 18, 2008, at Vacaville, California.**

Respectfully Submitted,

/s/ Nathan Kevin Turner

Plaintiff In Pro. Se

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STD. 113 (REV. 8-72)

85 34769

EXHIBIT-A

NATHAN KEVIN TURNER
C44886
P.O. Box 2000
Vacaville, CA 95696-2000
In Pro. Per.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

NATHAN KEVIN TURNER Plaintiff, BONNIE DUMANIS, et al., Defendants.	CIVIL NO. 08-CV-0360 W(RBB) REQUEST FOR 60 DAY ENLARGEMENT OF TIME TO RESPOND TO MOTION TO DISMISS [DOC. No. 15]. [DOC. NO. 10]; [DOC. NO. 12], and [DOC. NO. 13] Date: July 28, 2008 Dept: 7-Courtroom of the Honorable Thomas Whelan Trial Date: NONE

PLEASE TAKE NOTICE plaintiff request for 60-day Enlargement of time to file the Objection to defendant's motion to dismiss in [doc. No. 10]; [doc. No. 12]; [doc. No. 13]; and [doc. No. 15]. Plaintiff received order from the Court on 7-2-08 although the office of the Clerk date is June 20, 2008.

On June 23, 2008, which was to be heard by Judge Whelan. The Court finds that all motions are suitable for resolution without oral argument pursuant to Local Rule 7.1(d)(1), and accordingly the hearing dates are VACATED. After the motions was filed, Plaintiff submitted a Request for 30-day Enlargement of Time [doc. No. 15], which was filed NUNC pro tunc to June 16, 2008, asking for additional time to responed to defendant Brown's Motion to Dismiss. Good Cause appearing, Plaintiff Request was GRANTED. The parties shall comply with the following briefing schedule relating to all pending Motions to Dismiss:

(1) Turner shall file a combined response to all three Motions to Dismiss No later than July 28, 2008. The response should separately address the merits of each Motion.

(2) Defendants shall file any reply briefs No later than August 11, 08. The Motions will be submitted at that time and No further breifing will be accepted absent further order of the Court. IT IS SO ORDERED. DATED: JUNE 20, 2008.

The Plaintiff ask this Court for an 60-day Enlargement of time there is Good cause to grant Plaintiff's request for an extension of time to file an opposition Motion to defendants Motion to Dismiss.

Accordingly, Plaintiff shall have sixty days following the service of the Court's screening to file and serve defendants Motion to Dismiss in [doc. No. 10]; [doc. No. 12]; [doc. No 13]; and [doc. No. 15]. In opposition to.

ON or about 6/20/2008, Plaintiff was escorted to Administrative Segregation Unit Placement (See Exhibit-A) As a result all Plaintiff's Personal Property has been Confinscated and Stored along with his legal documents and papers.

ON or about 6/23/2008, Plaintiff submitted a CDCR-GA-22 request for Interview to Prison Staff Correctional Officer Galindo whom is the ad seg Property C/O assigned Post. C/O Galindo Stated to Plaintiff "we are trying to locate your Property." Plaintiff explained to C/O that Plaintiff has legal Court deadlines and need necessary legal document to fulfull legal deadline obligations legal deadline was verified however, Plaintiff at present still sets hear in Ad. Seg. without his legal documents to litigate his on-going Complaints as well as to be able to file Motions in opposition to defendants Motion to dismiss.

On or about July 2, 2008, Prison Committee/warden told his administration Seg unit to release Plaintiff back onto general Compound as of this here date Plaintiff still remains in ad.seg. Pending No bed available in general Compound because of overcrowding. Plaintiff is still without his legal Papers or Personal Property.

On or about July 3. 2008, Plaintiff filed a Prison grievance to Supervising C/Sgt. Riley, Explaining the urgency of legal documents Needed because of legal Court deadline and I need to answer. (See Exhibit - B).

Plaintiff has No other remedy available as this is Procedural within ("CDCR") Policy and Procedures.

These reasons are setforth to the Court for the Consideration of Plaintiff's 60-day extension of time to answer defendant's Motions to Dismiss [doc. No 10]; [doc. No. 12]; [doc. No 13] and [doc. No. 15].

Plaintiff continues being deprived/denied access to the Courts By ("CDCR") Prison staff therefore they are obstructing my access to the Court.

I declare, under the penalty of perjury, that the foregoing is true and Correct.

DATED: July 10, 2008

Respectfully Submitted,

Nathan Kevin Turner

IN Pro Per.

Case: 3:08-cv-00360-W-RBB DATE FILED: 07/10/2008

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

NATHAN KEVIN TURNER, Plaintiff,

v.

BONNIE DUMANIS, et al., Defendants.

CASE No. 08-CV-00360 W(RBB)

PROOF OF SERVICE

I, the undersigned, hereby certify that I am over the age of eighteen years and am not a party to the above entitled action.

On July 10, 2008, I served a copy of A REQUEST FOR A 60-DAY ENLARGEMENT TO MOTION IN OPPOSITION TO DISMISS by placing said copy in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the United States Mail:

(List all person(s) served in this action.)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

OFFICE OF THE CLERK
880 FRONT STREET, SUITE 4290
SAN DIEGO, CALIFORNIA 92101-8900

STATE OF CALIFORNIA
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
110 WEST A STREET, SUITE 1100
POST OFFICE BOX 85266
SAN DIEGO CA 92101

John J. SANSONE, (State Bar No. 103060)
1600 Pacific Highway, Room 355
San Diego CA 92101-2469

I declare, under the penalty of perjury, that the foregoing is true and correct.

DATED: July 10, 2008

Nathan Kevin Turner
Declarant's signature

NATHAN KEVIN TURNER
Declarant's printed name

EXHIBIT A

STATE OF CALIFORNIA
DEPARTMENT OF CORRECTIONS

ADMINISTRATIVE SEGREGATION UNIT PLACEMENT NOTICE
CDC 114-D (Rev 9/98)

DISTRIBUTION:
WHITE - CENTRAL FILE
BLUE - INMATE (2ND COPY)
GREEN - ASU
CANARY - WARDEN
PINK - HEALTH CARE MGR
GOLDENROD - INMATE (1ST COPY)

INMATE'S NAME	CDC NUMBER
TURNER, N.	C-44886

REASON(S) FOR PLACEMENT *(PART A)*

☐ PRESENTS AN IMMEDIATE THREAT TO THE SAFETY OF SELF OR OTHERS
☐ JEOPARDIZES INTEGRITY OF AN INVESTIGATION OF ALLEGED SERIOUS MISCONDUCT OR CRIMINAL ACTIVITY
☐ ENDANGERS INSTITUTION SECURITY ☐ UPON RELEASE FROM SEGREGATION, NO BED AVAILABLE IN GENERAL POPULATION

DESCRIPTION OF CIRCUMSTANCES WHICH SUPPORT THE REASON(S) FOR PLACEMENT:

On Friday, June 20, 2008 you are being re-housed from J-350-L to W-133 on Administrative Segregation Status (ADSEG). Specifically, you refused a direct order to complete a scheduled bed change to J-270-L. You stated that you are too old and you're not moving. Based on this information, your presence on the CMF Mainline is deemed a threat to the safety and security of CMF. You will remain in ADSEG pending further administrative review and possible ICC action, to determine appropriate housing for you, based on case factor information. The attached CDCR 128C's dated June 20, 2008 reflect Psychiatric and Medical clearance for your placement in ADSEG. You are not a participant in the MHSDS. You are not a Clark participant. You are an Armstrong program participant at the DPM level. Your reading score is above 4.0 (6.0).

☐ CONTINUED ON ATTACHED PAGE (CHECK IF ADDITIONAL) ☐ IF CONFIDENTIAL INFORMATION USED, DATE OF DISCLOSURE: / /

DATE OF ASU PLACEMENT	SEGREGATION AUTHORITY'S PRINTED NAME	SIGNATURE	TITLE

DATE NOTICE SERVED	TIME SERVED	PRINTED NAME OF STAFF SERVING ASU PLACEMENT NOTICE	SIGNATURE	STAFF'S TITLE

☐ INMATE REFUSED TO SIGN	INMATE SIGNATURE	CDC NUMBER

ADMINISTRATIVE REVIEW *(PART B)*

The following to be completed during the initial administrative review by Captain or higher by the first working day following placement

STAFF ASSISTANT (SA) | **INVESTIGATIVE EMPLOYEE (IE)**

STAFF ASSISTANT'S NAME	TITLE	INVESTIGATIVE EMPLOYEE'S NAME	TITLE

IS THIS INMATE:

LITERATE?	☐ YES	☐ NO
FLUENT IN ENGLISH?	☐ YES	☐ NO
ABLE TO COMPREHEND ISSUES?	☐ YES	☐ NO
FREE OF MENTAL HEALTH SERVICES DELIVERY SYSTEM NEEDS?	☐ YES	☐ NO
DECLINING FIRST STAFF ASSISTANT ASSIGNED?	☐ YES	

Any "NO" requires SA assignment

☐ NOT ASSIGNED

EVIDENCE COLLECTION BY IE UNNECESSARY	☐ YES	☐ NO
DECLINED ANY INVESTIGATIVE EMPLOYEE	☐ YES	☐ NO
ASU PLACEMENT IS FOR DISCIPLINARY REASONS	☐ YES	☐ NO
DECLINED 1ST INVESTIGATIVE EMPLOYEE ASSIGNED	☐ YES	

Any "NO" may require IE assignment

☐ NOT ASSIGNED

INMATE WAIVERS

☐ INMATE WAIVES OR DECLINES INTERVIEW WITH ADMINISTRATIVE REVIEWER ☐ INMATE WAIVES RIGHT TO 72 HOURS PREPARATION TIME

☐ NO WITNESSES REQUESTED BY INMATE	INMATE SIGNATURE	DATE

WITNESSES REQUESTED FOR HEARING

WITNESS' NAME	TITLE/CDC NUMBER	WITNESS' NAME	TITLE/CDC NUMBER
WITNESS' NAME	TITLE/CDC NUMBER	WITNESS' NAME	TITLE/CDC NUMBER

DECISION: ☐ RELEASE TO UNIT/FACILITY____________ ☐ RETAIN PENDING ICC REVIEW ☐ DOUBLE CELL ☐ SINGLE CELL PENDING ICC

REASON FOR DECISION:

ADMINISTRATIVE REVIEWER'S PRINTED NAME	TITLE	DATE OF REVIEW	TIME	ADMINISTRATIVE REVIEWER'S SIGNATURE

CORRECTIONAL ADMINISTRATOR'S PRINTED NAME (if necessary)	CORRECTIONAL ADMINISTRATOR'S CO-SIGNATURE (if necessary)	DATE OF REVIEW

See Chronological Classification Review document (CDC 128-G) for specific hearing information

EXHIBIT B

CC: C/Sgt. Riley Ad Seg
App. Coord
N t

INMATE/PAROLEE APPEAL FORM
CDC 602 (12/87)

Location: Institution/Parole Region	Log No.	Category
1.	1.	
2.	2.	

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
TURNER, N.	C 44886	Supervising C/Sgt Riley	W1-1335

A. Describe Problem: THIS IS BEING GENERATED DUE TO MY OVERT INTEREST IN RECEIVING LEGAL DOCUMENTS/LEGAL PAPERS. APPELLANT HAS A VERIFIED LEGAL DEADLINE. IT IS UNFORTUNATE ONE HAS TO WRITE THIS GRIEVANCE BUT ITS PROCEDURAL. ON JUNE 20 2008 APP. WAS ESCOURTED TO Ad SEG UNIT AND RETAINED UNTIL SEEN BY I.C.C COMMITTEE COMMENCED ON 7/2/2008 HOWEVER, APP. SUBMITTED A ("CDCR") GA-22 TO CORRECTIONAL OFFICER GLINDO, PROPERTY STAFF EXPLAINING APP. HAS A VERIFIED LEGAL COURT DEADLINE AND NEED LEGAL DOCUMENTS. FIRST ATTEMPT WAS 6/23/2008 NO REPLY. ON 6/26/08 BEING ESCORTED TO DOCTOR AGAIN APP TOLD C/O GLINDO I'M IN NEED OF MY LEGAL DOCUMENTS NO REPLY ON 7-7-08 WHILE AGAIN ESCORTED TO DOCTOR CLINIC I SUBMITTED ANOTHER GA 22 REQUEST FOR INTERVIEW TO SEE C/O GLINDO PERTAINING APP. URGENT NEEDED LEGAL DOCUMENTS. C/O GLINDO, STATED "I'LL LOOK INTO IT." THIS IS MY REASON FOR SUBMITTING THIS HERE GRIEVANCE TO REMEDY THIS ON-GOING DENIAL/DEPRIVATION TO ACCESS COURTS WITHOUT NECESSARY LEGAL DOCUMENTS/PAPERS. YOUR C/O GLINDO CONTINUALLY OBSTRUCTS APP HIS LEGAL RIGHT.

If you need more space, attach one additional sheet.

B. Action Requested: PLEASE TAKE NOTICE THAT APPELLANT IS BEING DEPRIVED/DENIED HIS LEGAL DOCUMENTS/PAPER AS HE DOES HAVE A VERIFIED COURT DEADLINE THE PRISON LAW LIBRARY HAS IT RECORDED AND SIGNED IN ITS LOG BOOK. APPELLANT ASK ACCORDANCE TO CAL CODE REGS OF REGS TITLE 15 SECTIONS 3164(a) 3316(4)(B)(b)(c) AKIN TO THE DEPARTMENT OPERATIONS MANUAL (D.O.M) AS STATES AS FOLLOWS: "OTHER LEGAL MATERIAL IN INMATE'S PERSONAL PROPERTY MAY BE ISSUED TO AN INMATE IN DISCIPLINARY DETENTION IF LITIGATION WAS IN PROGRESS BEFORE THE INMATE'S PLACEMENT IN DISCIPLINARY DETENTION AND LEGAL DUE DATES ARE IMMINENT." BE GIVEN LEGAL DOCUMENTS/MATERIALS OUT OF HIS PERSONAL PROPERTY TO ACCESS COURTS TO LITIGATE ON-GOING COURT DEADLINE WITHOUT BEING OBSTRUCTED WITHOUT FURTHER ADO.

Inmate/Parolee Signature: [signature] Date Submitted: 7/3/2008

C. INFORMAL LEVEL (Date Received: ____________)

Staff Response: ______________________________

Staff Signature: ______________________________ Date Returned to Inmate: ____________

D. FORMAL LEVEL
If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: ______________________________ Date Submitted: ____________

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number:

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

Nathan Kevin Turner, Plaintiff,

v.

Bonnie Dumanis, et al., Defendants.

CASE No. 08-cv-00360 W (RBB)

PROOF OF SERVICE

I, the undersigned, hereby certify that I am over the age of eighteen years and am not a party to the above entitled action.

On July 18, 2008, I served a copy of Request for enlargement of time 60-days an inquiry to original request dated July 10, 2008. WITH EXHIBIT-A by placing said copy in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the United States Mail:

(List all person(s) served in this action.)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

OFFICE OF THE CLERK
880 FRONT STREET, SUITE 4290
SAN DIEGO, CALIFORNIA 92101-8900

I declare, under the penalty of perjury, that the foregoing is true and correct.

DATED: August 18, 2008

Nathan Kevin Turner
Declarant's signature

Nathan Kevin Turner
Declarant's printed name